

## **Exhibit 1**

Nadiya Chadha

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IN THE UNITED STATES DISTRICT COURT  
for the SOUTHERN DISTRICT of NEW YORK

CHRISTA McAULIFFE INTERMEDIATE	:	
SCHOOL PTO, et al.	:	
Plaintiffs	:	
	:	
-VS-	:	NO.
	:	1:18:cv:11657 (ER)
BILL de BLASIO, in his	:	(OTW)
official capacity as MAYOR of	:	
NEW YORK CITY, et al.	:	
Defendants	:	

\* \* \* \* \*

FRIDAY, APRIL 23, 2021

\* \* \* \* \*

Zoom Video Conferencing virtual remote deposition of NADIYA HELAIFI-CHADHA, taken pursuant to notice, held in New York, New York, on Friday, April 23, 2021, beginning at 11:13 a.m., before Susan L. Singlar, Professional Court Reporter and Notary Public of the Commonwealth of Pennsylvania, there being present.

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1 questions?

2 A. No.

3 Q. What did you do to prepare for today's  
4 deposition?

5 A. I spoke with my lawyers here today.

6 Q. Did you review any documents?

7 A. Yes.

8 Q. Which documents did you review?

9 A. I reviewed my Affidavit in this case  
10 and other related documents as part of this case.

11 Q. Did you review the discovery documents,  
12 any part of the discovery documents that defendants  
13 produced in this case?

14 A. Yes.

15 Q. You're currently employed by the New  
16 York City Department of Education; correct?

17 A. Yes.

18 Q. I think in your Declaration you said  
19 that you were the director of Research and Policy at  
20 the Office of Student Enrollment.

21 Is that still true?

22 A. No.

23 Q. What is your current position?

24 A. I'm the Senior Director for Strategic

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1     Affairs within the Office of Student Enrollments at  
2     the Department of Education.

3             Q.       When did you start in that position?

4             A.       In November of 2019.

5             Q.       And so before that you were the  
6     director of Research and Policy; correct?

7             A.       Correct.

8             Q.       In your position as the director of  
9     Research and Policy, did you have any  
10    responsibilities related to admissions to the  
11    specialized high schools?

12            A.       Yes.

13            Q.       What were those?

14            A.       I was responsible for analyzing and  
15    computing offers for students each year and was  
16    responsible for the admissions process from start to  
17    finish for the specialized high schools.

18            Q.       When did you start working at DOE?

19            A.       In 2015.

20            Q.       Do you recall what month in 2015?

21            A.       Yeah, in July.

22            Q.       So have you been responsible for  
23    admissions to the specialized high schools from 2015  
24    through 2020?

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1 definition makes a pretty big difference?

2 Is she referring to the racial makeup  
3 of the specialized schools?

4 A. I can't recall without looking at the  
5 document again.

6 Q. Let's move down to page four of this  
7 exhibit. This is an e-mail that you sent to Ms.  
8 Murarka and Lianna Wright.

9 Who is she?

10 A. She was my manager at the time. And  
11 her title was --

12 Q. Oh, they're just CCed. I'm sorry.  
13 It's actually addressed to Rob, but he's not on the  
14 header.

15 Who is Rob, do you recall?

16 A. Yeah. Rob was the chief executive  
17 officer in my office.

18 Q. What was his full name?

19 A. Robert Sanft, Robert, R-O-B-E-R-T, last  
20 name S-A-N-F-T.

21 Q. Thank you.

22 Can you read what you wrote there in  
23 the first bullet point?

24 A. As we mentioned, without significantly

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1 altering the disadvantaged definition, neither model  
2 shows real change in the demographics at the SHS.  
3 The small changes reflected in the memo are specific  
4 to this year and don't reflect what could happen next  
5 year given all the other initiatives.

6 Q. So would I be correct to say that you  
7 were saying there that unless -- unless you change  
8 the definition of disadvantage, expanding Discovery  
9 on its own is not going to increase the percentage of  
10 black and Hispanic students at the specialized  
11 schools?

12 A. Correct.

13 Q. And can you read what you wrote there  
14 in the second bullet point?

15 A. The third model is using a very narrow  
16 definition of disadvantage, which, of course, can be  
17 adjusted as makes sense. In our model, disadvantaged  
18 students as derived -- as defined by FRL, STH, ELL  
19 and had to also attend one of the top 50 percent of  
20 schools in terms of economic need, ENI.

21 Q. When you said that it could be adjusted  
22 as makes sense, what does makes sense mean in that  
23 context?

24 What did you mean for the model to make

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1 going to be expanded from its current size to  
2 20 percent of seats at each of the specialized high  
3 schools over a two-year period, as well as a change  
4 to the disadvantaged definition requiring the student  
5 to both be individually disadvantaged and attend a  
6 high-needs middle school in order to be eligible for  
7 the program.

8 Q. And what was the -- what was the  
9 required ENI for a student to be eligible?

10 A. At least 60 percent.

11 Q. And that was the ENI of their -- their  
12 incoming school, either it would be their middle  
13 school or a K through 8?

14 A. Correct.

15 Q. Did you model the affected -- the  
16 expected racial effect of this policy change before  
17 it was implemented?

18 A. Yes.

19 Q. I'm going to show you what has been  
20 marked as Exhibit C. This is not confidential. I  
21 believe this was attached to your Declaration in  
22 2019.

23 Do you recall this?

24 A. Yes.

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1 Q. What does this document show?

2 A. It shows part of my model, which  
3 basically shows the demographics under the -- under  
4 two actual scenarios, and then the model, which --  
5 which expanded the Discovery Program to 20 percent of  
6 seats and have a 60 percent of ENI for the students.

7 Q. So you used the student data from the  
8 -- the 2016 admission cycle that began in 2017;  
9 correct?

10 A. Yes, the fall 2017 admissions.

11 Q. And how did you -- how did you conduct  
12 -- how did you conduct the model or come up with the  
13 predictions in the bottom row?

14 A. So essentially what I did was use  
15 actual information about students who took that  
16 year's exam and regenerated who would have been  
17 invited to participate in the Discovery Program had  
18 these rules been in effect that year.

19 Q. When you say invited to the Discovery  
20 Program, does that mean that DOE had already  
21 confirmed that those individuals were individually  
22 disadvantaged?

23 A. Yes.

24 Q. Did DOE invite other people to the



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1 determine who those people are, even though you don't  
2 have information for everyone on an individual level?

3 A. All right. So that's why this model --  
4 that's why this is a model and we included some  
5 caveats when we were talking about it because we know  
6 that even though all the students that we are  
7 counting in this bottom row, the 5,215 students, many  
8 of them might not actually participate in Discovery,  
9 as well.

10 Q. Even if they qualified; correct?

11 A. Correct.

12 Q. Because it was up to them to decide  
13 whether they even wanted to participate in Discovery;  
14 correct?

15 A. Correct.

16 Q. The bottom line of this model, though,  
17 is it correct to say that you -- you predicted that  
18 implementing the Discovery changes would result in  
19 the decline in Asian American offers to the  
20 specialized high schools by 2.1 percentage points?

21 A. Yes. That's correct. That's a share  
22 of the overall offers, correct.

23 Q. And you also projected that the share  
24 of overall offers to white students would decline by

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1 2.5 percentage points?

2 A. Yes.

3 Q. While the share of black and Hispanic  
4 offers would increase from -- I believe that's  
5 10.3 percent -- or I'm sorry, no. The top line  
6 doesn't matter.

7 -- 10.8 percent to 16.6 percent; is  
8 that correct?

9 A. Yes.

10 Q. I think we can put this one -- put this  
11 away for now.

12 Did you model any other potential  
13 scenarios for Discovery expansion before it was  
14 implemented?

15 A. Yes.

16 MR. KIESER: Can we put up what has  
17 been marked as Exhibit D? This is  
18 confidential. It's page 5950 of -- Bates  
19 stamp 5950.

20 BY MR. KIESER:

21 Q. Are you familiar with this document?

22 A. Yes.

23 Q. Did you -- are the models that are  
24 shown on here, did you run these?

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1 A. Yes.

2 Q. So looking at the alternative models  
3 here, the first two columns are -- rows are exactly  
4 what's shown on the previous exhibit for 2017,  
5 correct, what actually happened in 2017?

6 A. Yes.

7 Q. The third row down it says: SHSAT  
8 offers plus 20 percent of seats for Discovery with no  
9 ENI floor.

10 Is that what would have happened had  
11 you simply expanded Discovery to 20 percent of each  
12 school without imposing an ENI floor?

13 A. Yes. It's my prediction of what would  
14 have happened in my model.

15 Q. And am I correct to say that that model  
16 shows no change in the projected share of black and  
17 Hispanic seats?

18 A. When rounded, correct.

19 Q. And yeah. They're, obviously, rounded  
20 percentages.

21 And -- and actually an increase in the  
22 percentage of white students?

23 A. Correct.

24 Q. And this is for specialized schools'

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1 offers as a whole, Discovery and SHSAT; correct?

2 A. Correct.

3 Q. Now, let's move down to the next

4 column. It says: SHSAT offers 20 percent of seats

5 with a 40 percent ENI floor.

6 Would I be correct to say that you

7 predicted that Asian American enrollment in that

8 scenario would be the same -- or I'm sorry, offers,

9 not enrollment, would be the same -- I'm sorry. I

10 just want to go off on a slight tangent here.

11 Do you have any models that project

12 yield as who will accept your offers to the

13 specialized schools?

14 A. No.

15 Q. Okay.

16 How do you determine how many seats to

17 -- how many offers to make when you -- how do you

18 determine how many offers to make each year under

19 the -- just for the SHSAT?

20 A. We look at the historical show-up

21 rates, so of all offers, what percent of kids

22 actually enrolled at the school. We look at the past

23 two year's high school and calculate an average of --

24 of each year.

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1           Q.       Is there -- or have there been years  
2       where you invited too many people to -- to a school,  
3       or too many people accepted offers?

4           A.       Most likely, yeah.

5           Q.       And does anything happen in that  
6       scenario or they all get -- they still all get to go;  
7       correct?

8           A.       Yes.

9           Q.       Okay. Back to this exhibit.

10                   In the 40 percent ENI floor scenario  
11       you projected that Asian American offers to the  
12       specialized high schools would not fall at all, or  
13       rounded, at least, wise, and that a white share of  
14       the offers would go down by one percentage point;  
15       correct?

16           A.       Exactly. Yes.

17           Q.       And black and Hispanic share of the  
18       offers would go up by approximately two percentage  
19       points?

20           A.       Correct.

21           Q.       And that the 60 percent floor you  
22       projected that Asian Americans would lose two  
23       percentage points of their -- their representation,  
24       white students would lose two percent, rounded, and

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1 black and Hispanic students would gain five percent?

2 A. Yes.

3 Q. Thank you.

4 So as you go down -- and the 80 percent  
5 floor, I guess I should go through that, too.

6 You projected that Asian Americans  
7 would receive six percentage points fewer offers,  
8 white students would receive three percentage points  
9 fewer offers, and black and Hispanic students would  
10 receive 11 percentage points more offers?

11 A. Yes.

12 Q. Thank you.

13 So would you agree that as you go down  
14 and keep increasing the ENI floor, percentage of  
15 Asian students offered a seat at the specialized  
16 schools would continue to fall?

17 A. Yes.

18 Q. Why is that, do you know?

19 A. It meant that fewer Asian students were  
20 eligible for the program at the higher level, the  
21 highest level.

22 Q. I want to show you -- related to  
23 that -- we may go back to this exhibit but I want to  
24 show you Exhibit E, which is page 7614. It's

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1 a whole?

2 A. Correct.

3 Q. Thank you.

4 Let's move on to -- did you also run  
5 models --

6 MR. KIESER: You can take the exhibit  
7 down. Thank you.

8 BY MR. KIESER:

9 Q. Did you also run models that projected  
10 the racial composition of the Discovery Program alone  
11 as a result of the 2018 changes?

12 A. Most likely, yes.

13 Q. I'm going to show you what has been  
14 marked as Exhibit G. This is confidential,  
15 page 5359.

16 Would you agree that this is an e-mail  
17 that you sent in August of 2018?

18 A. Yes.

19 Q. Can you explain what that table is?

20 A. So it's comparing the -- it's comparing  
21 some preliminary data on the racial makeup of  
22 students who would be getting into the specialized  
23 high schools through Discovery for the fall of 2018  
24 against what that would have been an under-expanded

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1 model.

2 Q. When you say -- when you say  
3 "preliminary data," how is the data preliminary?

4 In what ways was it not final?

5 A. So it was before -- it was before  
6 actual offers to the specialized high schools would  
7 have been made, or would have been final for that  
8 summer. So I assume it was just very, you know, mid  
9 -- mid-program data.

10 Q. This -- this -- oh, so you're saying  
11 the data is for students who were in the Discovery  
12 Program but hadn't received a final offer to actually  
13 attend a specialized high school?

14 A. Yes, based on the title of this column.

15 Q. And do most students who complete -- or  
16 do most students who enter the Discovery Program  
17 complete it and receive an offer at the specialized  
18 high school?

19 A. Yes.

20 Q. Is it almost all of them?

21 A. Yes.

22 Q. So would it be fair to say that --  
23 well, actually, stepping back a second here, when you  
24 say received SHS offers through Discovery, you're --



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1 second column is a -- is a prediction of what the  
2 actual student -- the actual students who actually  
3 participated in Discovery would have been?

4 A. The second column?

5 Q. The second column, yeah, as opposed  
6 to -- as opposed to a prediction of who you would  
7 have invited to participate, it's a projection of who  
8 actually would?

9 A. No. I think the second column -- I  
10 think this is, like, a little bit of an apples to  
11 oranges comparison. The second column would --  
12 includes kids who would ultimately choose not to  
13 participate. So the asterisk says it's data for  
14 students who would have been eligible to apply for  
15 Discovery but it says it reflects income eligibility  
16 or student interest in participating.

17 Q. So when you say would have been  
18 eligible to apply, that's based on their SHSAT scores  
19 only?

20 A. I believe it was based on the SHSAT  
21 score and the ENI percentage.

22 Q. Oh, and the school-level indicator.

23 A. Yeah.

24 Q. Sorry.

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1                   And would it be correct to say that  
2    you -- you anticipated that Discovery -- at least the  
3    people who you invited to participate in Discovery  
4    under the new model, the new system, would have been  
5    53 percent black and Hispanic and 38 percent Asian  
6    American?

7           A.       Yes.

8           Q.       Had Discovery -- in your time at DOE,  
9    was Discovery ever a majority black and Hispanic?

10          A.       Not -- no.

11          Q.       I just wanted to -- the e-mail below  
12    that is from Will Mantell.

13                   Who is he?

14          A.       He was the press secretary for the  
15    Department of Education.

16          Q.       And when he says: C-H, is that an  
17    abbreviation for City Hall?

18          A.       Yes.

19          Q.       So it was correct that the Mayor's  
20    office was asking for this -- this prediction?

21          A.       Yes.

22          Q.       Thank you.

23                   I'm going to quickly show you Exhibit  
24    H, which is page 5174 Bates stamp, also confidential.

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1 Do you recognize this as an e-mail that  
2 you wrote to -- in the middle there, an e-mail that  
3 you wrote to Will Mantell --

4 A. Yes.

5 Q. -- June 4th, 2018, which would have  
6 been one day after the -- the changes were announced,  
7 I believe?

8 Is that table a result of the same  
9 model that was in the previous exhibit?

10 A. Yes. It looks like it.

11 Q. Okay.

12 You said that the -- the uncertainty of  
13 this model is based on because of -- you don't know  
14 who would want to participate or who would be  
15 eligible for Discovery?

16 A. Right.

17 Q. Were there any other sources of  
18 uncertainty in the model?

19 A. I don't believe so.

20 Q. Now I want to move to Exhibit I. This  
21 is confidential. It's pages 7467 and 7468 Bates  
22 stamp. The first e-mail there has a missing header,  
23 I believe.

24 But would you agree that you -- you

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1 wrote that e-mail?

2 You signed it?

3 A. Yes.

4 Q. On the first -- okay. I'm sorry.

5 Okay.

6 You say -- can you read that -- that  
7 second paragraph?

8 A. Even if we expand Discovery and adjust  
9 the definition, the percentages of students by race  
10 do not change drastically compared to our other  
11 proposals. Asian and white students are similarly  
12 overrepresented. The total black and Hispanic  
13 percentage increases from ten to 18 percent at most,  
14 plus approximately 400 students.

15 Q. What -- what do you mean there when --  
16 what did you mean there when you said the Asian and  
17 white students are overrepresented?

18 A. It refers to the fact that compared to  
19 the overall pool of testers, the percent of students  
20 who receive an offer were Asian and white is higher.

21 Q. Okay.

22 And which other proposals in the  
23 parenthetical, which other proposals would you --  
24 were you referring to?

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1 I think it was 256 or something like  
2 that?

3 A. Yes. Correct.

4 Q. Good. Yeah. Okay.

5 So the 40 percent floor, would I be  
6 correct that that reduced -- that was predicted to  
7 reduce white representation in the Discovery Program  
8 eligibility pool by ten percentage points?

9 A. Correct.

10 Q. And increase black and Hispanic  
11 representation in the eligibility pool by -- I'm  
12 trying to do math -- ten percentage points?

13 A. Correct.

14 Q. And you projected no change, then,  
15 if -- if you -- if you went to 40 percent for the  
16 Asian proportion?

17 A. Yes.

18 Q. Now, as you move down to the 60 percent  
19 floor, which was ultimately what was implemented;  
20 correct?

21 A. Yes. Yes, that ENI portion of this,  
22 yeah.

23 Q. Leaving aside whether this was the  
24 20 percent expansion or not?

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1 A. Correct.

2 Q. You would agree then that the ENI floor  
3 moving to 60 would decrease Asian American  
4 representation in the eligibility pool by nine  
5 percentage points?

6 A. Yes.

7 Q. And increased black and Hispanic  
8 representation in the eligibility pool by 21  
9 percentage points?

10 A. Yes.

11 Q. And then, if you were to continue to go  
12 down to the 80 percent model, Asian representation in  
13 the -- in the eligibility pool would fall to  
14 15 percent and white representation would fall to one  
15 percent?

16 A. Yes.

17 Q. And the -- the number under minimum  
18 Discovery cut score, how did you -- how did you come  
19 up with that for each model?

20 A. So when calculating this model we would  
21 have looked at the lowest score of the students who  
22 we would have -- who we would have considered  
23 eligible for the Discovery Program.

24 Q. Would those cut scores have been lower,

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1 because it was a City-wide average at the time?

2 A. I can't say if that's why it was  
3 chosen, but that's part of some of my modeling.

4 Q. Let me put up Exhibit M. This is  
5 page 7235 of the Discovery documents Bates stamp.

6 Do you see the e-mail that you sent  
7 here to Will Mantell on December 13, 2018?

8 A. Yes.

9 Q. Do you recall that e-mail?

10 A. Yes.

11 Q. The bottom appears to be cut off, but  
12 read the first sentence there that you wrote.

13 A. Internal answer. That was the  
14 City-wide average at the time we modeled this.

15 Q. Read the rest of it, please.

16 A. I'm not sure we ever came up with a  
17 good external response. We have found that 60  
18 percent maintained eligibility for more schools  
19 without significantly altering the performance levels  
20 of students entering Discovery. Might need to  
21 connect with Emmy to see if she can remember what we  
22 wanted to say around this at the time.

23 Q. So would it be fair to say that this  
24 e-mail is your explanation for at least why you

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1 thought the 60 percent floor was chosen?

2 A. Yes.

3 Q. And so the internal answer being that  
4 was the City-wide average at the time.

5 Were you aware that in the updated  
6 demographic snapshot in 2018 the City-wide average  
7 ENI jumped more than ten percentage points?

8 A. Yes.

9 Q. Did you ever -- were you ever asked to  
10 model the racial impact of the 60 percent ENI floor  
11 with -- or did you consider -- first of all, did you  
12 consider the ENIs from the 2018 snapshot when you  
13 modeled the changes?

14 A. No.

15 Q. Did you know about them at the time you  
16 modeled the changes?

17 A. I don't -- I can't recall. Yeah.

18 Q. The demographic snapshot, I believe,  
19 was released in May of 2018, which was before the  
20 plan was ultimately announced in June.

21 Did anyone ever ask you to model using  
22 the -- the racial impact using the new ENIs,  
23 City-wide and school ENIs?

24 A. No.



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1           Q.       Did anyone ever ask you, or did you  
2       ever have any meetings, or did you ever send any  
3       e-mails about why the composition of Discovery was  
4       not as much black and Hispanic students as you  
5       expected?

6           A.       Yes.

7           Q.       And what was the explanation for that?

8           A.       I can't recall. I mean, the one thing,  
9       like, I know that that was an interim year, so that  
10      was a big part of it. But I don't know if we spent  
11      too much time trying to figure that out.

12          Q.       We discussed earlier with your  
13      alternative models of Discovery with the 40 percent,  
14      60 percent and 80 percent ENI floor, and I believe  
15      you said that you observed that Asian American  
16      enrollment -- or offers to the specialized high  
17      schools decreased as you increased the ENI floor;  
18      correct?

19          A.       Correct.

20          Q.       So a ten point jump in the City-wide  
21      ENI, would you expect that to have an affect on the  
22      racial composition of the Discovery Program?

23          A.       Yeah. I think it would make more  
24      schools and more students eligible, or fall under

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1                   Are you aware of that, approximately  
2   56,000, if I were to tell you that?

3           A.       Yeah. That sounds right.

4           Q.       And then in the next year it dropped by  
5   about 22,000.

6                   Would you agree that that sounds right?

7           A.       I am not sure. But if you're saying it  
8   --

9           Q.       The court has taken judicial notice of  
10   the demographic snapshot, but it's such a huge  
11   document that it would be impossible to show. But in  
12   any event, I was reading off the snapshot. And then  
13   it dropped by another 12,000 the next year.

14                   Were there ever any discussions as to  
15   whether the matching program would have a lasting  
16   affect on ENI or that the City-wide ENI would remain  
17   high?

18           A.       I wasn't -- I don't think I was part of  
19   any discussions on ENI in that way.

20           Q.       Would you expect as the number of  
21   students classified as in poverty on the demographic  
22   snapshot falls that ENI would also fall?

23           A.       Yeah. You would -- I would expect  
24   that.

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1           Q.       So following up on that, it's  
2     reasonable to expect that the City-wide ENI is not a  
3     fixed number that will never change; correct?

4           A.       Correct.

5           Q.       And it's also -- the calculation of ENI  
6     is entirely within the discretion of the Department  
7     of Education; correct?

8           A.       I'm not sure.

9           Q.       Is the ENI a Department creation or is  
10    it an external metric?

11          A.       I only know that the DOE uses it, but I  
12    don't know who created it.

13          Q.       And you're not aware of any proposal to  
14    increase the ENI floor to account for the rising  
15    City-wide average?

16          A.       I'm not aware, no.

17          Q.       I'm going to show you what has been  
18    marked as Exhibit N. This is an attachment to your  
19    Declaration.

20                   Do you remember this?

21          A.       Yes.

22          Q.       What does this show?

23          A.       I believe this was showing by middle  
24    school the number -- I'm sorry.

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1     this case, that would include -- the number one  
2     school on that list is Christa McAuliffe, highest  
3     187?

4             A.       Yes.

5             Q.       So would you agree that by imposing the  
6     ENI floor, the program renders ineligible --  
7     disproportionate -- schools disproportionately, which  
8     had sent a lot of students to the specialized high  
9     schools in the past?

10            MS. RICHTER:  Objection.  Objection as  
11            to form.

12            MR. KIESER:  I'll rephrase.

13     BY MR. KIESER:

14            Q.       Would you agree that this chart  
15     demonstrates that setting the ENI floor at 60 percent  
16     would exclude a number of Discovery participants  
17     based on who attended schools that sent many people  
18     to the specialized high schools in the past?

19            A.       Yes.

20            Q.       We talked earlier about how the average  
21     demographics of a school and over 60 percent ENI are  
22     only nine percent Asian and six percent white.

23                    Would it surprise you if -- I believe  
24     every school -- would it surprise you if the majority

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1 of schools on this list were no longer eligible for  
2 Discovery have a higher proportion of Asian students  
3 than DOE as a whole?

4 MS. RICHTER: Objection. I mean, this  
5 is one page of 11 and you're asking her to  
6 make all kinds of conclusions about a document  
7 that's 11 pages long and lists, you know, over  
8 600 schools.

9 MR. KIESER: This first page lists  
10 every school that had 17 offers, at least. So  
11 I'm asking her to talk about the schools that  
12 received the most offers. And I mean, I can  
13 go through and we can bring in the demographic  
14 snapshot, if you'd like, but I was just asking  
15 in general.

16 BY MR. KIESER:

17 Q. Would it surprise you that the schools  
18 that were rendered ineligible by the ENI floor are  
19 more Asian American than DOE as a whole?

20 A. Can you zoom in to the top part of  
21 this?

22 I guess it would not surprise me, no,  
23 if that's the case.

24 MR. KIESER: Can we take a ten-minute